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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/001,513	10/31/2001	Jurgen Bernhardt	KWPT.P-007	3245
21121	7590	05/28/2004	EXAMINER	
OPPEDAHL AND LARSON LLP			ROSENBAUM, MARK	
P O BOX 5068			ART UNIT	
DILLON, CO 80435-5068			PAPER NUMBER	
			3725	

DATE MAILED: 05/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/001,513	Applicant(s) BERNHARDT ET AL.	
	Examiner Mark Rosenbaum	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 37-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 37-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In view of the Brief filed 3/26/04 and the newly found art, the finality of the rejection mailed 10/23/03 has been withdrawn.

Claim Rejections - 35 USC § 102

Claims 37,39 are rejected under 35 U.S.C. 102(b) as being anticipated by Pattillo et al. This patent discloses a grinder having a set of blades prior to a perforated plate. The holes of the plate are less than 6 millimeters (.24 inches) in diameter; note particularly column 3, first paragraph.

Claim Rejections - 35 USC § 103

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pattillo et al. The plate in the patent is held in place by a retaining ring. Lock nuts are well known fasteners to one skilled in the art for their ease of assembly. In order to ease assembly/disassembly, it would have been obvious for one of ordinary skill in the art to modify Pattillo et al by using a lock nut instead of a retaining ring since the use of lock nuts for ease of assembly is well known in the mechanical arts.

Claims 38,40,41,43-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pattillo et al as applied to claim 37 above, and further in view of Gulke. Pattillo et al does not use a sensor chip as part of a safety system which may result in apparatus damage, material mistreatment, etc. Gulke solves this problem by disclosing a similar apparatus including the use of a sensor chip inside of a comminuting device to provide needed information for safety purposes, etc. In order to provide information for safety purposes, it would have been obvious for one of ordinary

skill in the art to modify Pattillo et al by placing a sensor chip on the plate (comminuting element) to provide needed information for the apparatus to work properly, taught to be desirable by Gulke. The exact type of information provided would have been a design choice only once the use of a sensor chip was known as in Gulke.

Response to Arguments

Applicant's arguments with respect to claims 37-64 have been considered but are moot in view of the new ground(s) of rejection. Furthermore, the examiner does not agree with applicant's interpretation of the Gulke patent. Clearly this patent shows the use of a sensor chip in a comminuting element to provide for a safety means. The sensor chip relates various comminuting element properties to a receiver much as applicant's does. No patentable subject matter is seen in the particular type of information provided as the sensor chip could be programmed to sense whatever feature desired.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Rosenbaum whose telephone number is 703-308-1788. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alan Ostrager can be reached on 703-308-3136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3725

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Rosenbaum
Primary Examiner
Art Unit 3725

MR